

Health Care and the Law

M'Naghten Rule: The Right or Wrong of Criminal Law

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The so-called "right or wrong test" exemplified in the M'Naghten rule, which applies to insanity as a defense in criminal cases, continues to thwart the medical experts. In this issue of the *Journal*, the article on "Gray Areas in Forensic Psychiatry" by Dr. Miller M. Ryans presents an example.

The "right or wrong test" was established by the House of Lords in M'Naghten's case in 1843. The defendant attempted to kill the Prime Minister and instead killed his secretary. The trial judge instructed the jury to acquit if the defendant was "not sensible" at that time. The jury found the defendant not guilty, and on questions propounded by the House of Lords, 15 English judges stated the accused was not guilty if he were "labouring under such a defect of reason from disease of the mind, as not to know the nature and quality of the act that he was doing; or if he did know it, that he did not know he was doing what was wrong."

Since this rule, which is now well over 100 years old, other tests of criminal responsibility have come about primarily to broaden the narrowness of M'Naghten. Despite criticism of

M'Naghten, even by the legal profession, it still stands unchanged and is a particular dilemma for the psychiatrist. However, when one views or accepts the orientation of a physician and that of a lawyer as being different, it becomes easier to understand the frustration of the medical profession with M'Naghten.

As one author puts it:

"The basic philosophy of criminal law is that a person who has been convicted of commission of a crime must be punished. He must be punished because he has been found to be a wicked man who should suffer retribution for his misdeeds. . . Thus, the legal norm involves a moral standard and the primary objectives of the law are punishment and social defense.

The psychiatrist on the other hand appraises the defendant's condition as a medical problem. He is concerned with such questions as: (1) whether the man has a mental illness for which he needs treatment; (2) if so, what kind of treatment; and (3) the extent to which treatment can be expected to cure or alleviate his illness. He is not concerned with moral judgments or with punishing the defendant."¹

With respect to Dr. Ryans' article, it is not sufficient to state the patient was under the delusion that the victim was practicing evil upon her. The real test was whether she knew or did not know, even under the delusion, that it is wrong to kill another person. She apparently knew the difference.

The courts are no more interested in protecting the mentally ill than the well person in a criminal case if a wrongful act has been committed unless there is a defect in the reasoning of that person so that he or she could not tell right from wrong. An accused may have a mental disorder or deficiency and still be mentally competent to be held legally responsible for his or her crime.²

We would like to briefly advise our readers that there are some states which have adopted a broader view. In 1968, Kentucky held that in the light of modern knowledge it is clear that the right or wrong test of criminal responsibility is inadequate.³ The state of Maryland in the same year approved the American Law Institute's insanity formulation and rejected M'Naghten's Test.⁴ However, Maryland cases which began prior to June 1, 1967 are required to be measured by M'Naghten's rule though a final hearing in the case may not take place until after that period of time.

The majority rule in this country remains the M'Naghten rule.

Literature Cited

1. Shartel B, Plant M: The Law of Medical Practice. Springfield, Illinois, Charles C Thomas, p 362
2. United States vs Fratus, 530 F 2d 644, 1974
3. United States vs Smith, 404 F 2d 720, 1968
4. United States vs Chandler, 393 F2d 920, 1968

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